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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/799,947

03/12/2004

Gary Dean LaVon

9577

8015

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7590

07/13/2006

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
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EXAMINER

HAND, MELANIE JO

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/799,947

Applicant(s)

LAVON ET AL.

Examiner

Melanie J. Hand

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-15 and 20 is/are allowed.
- 6) ☒ Claim(s) 16-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/16/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments, see Remarks, filed April 20, 2006, with respect to the rejection(s) of claim(s) 16-19 under 35 U.S.C. 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of a newly found prior art reference.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on March 16, 2006 was filed after the mailing date of the Application on March 12, 2004. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Tanji et al (U.S. Patent No. 6,461,342).

With respect to **Claim 16**: Tanji teaches a diaper cover 1 comprising a chassis 2 having a front waist region 6, a rear waist region 7, and a crotch region 8 extending between the two waist regions 6,7. The diaper has liquid absorbent core assembly 110 having an interior surface and an exterior surface. Semicircular side edge zones 23 define laterally opposed longitudinally extending breathable side flaps, each flap having longitudinally opposing ends and a longitudinally extending proximal edge. Side flaps 23 are attached adjacent to their ends to the interior surface of the absorbent assembly 110. Longitudinally extending leg hole elastic members 121,122 are attached to side flaps 23 adjacent their proximal edges such that the elastic members contract upon relaxation and lift the side flaps 23 away from said interior surface of the absorbent assembly 110 to form a breathable side barrier (Fig. 3) Chassis 2 is attached to the exterior surface of core assembly 110 and has an interior surface and an exterior surface. Chassis 2 is comprised of liquid-impermeable backsheet 105 and has at least one fastening element 17 for fastening said front waist region and back waist region together to encircle the waist and legs of a wearer. Fasteners 17 are tape fasteners and are therefore adapted to be openable and refastenable.

With respect to **Claim 17**: As stated with respect to claim 16, fastening elements 17 are adhesive tape tab fasteners.

With respect to **Claim 18**: Tape tab fastening elements 17 are cohesive in that the adhesive formed thereon is capable of sticking to itself but not able to significantly stick to other materials, hence the openability and refastenability of said tape tabs.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tanji et al (U.S. Patent No. 6,461,342).

With respect to **Claim 19**: Tanji also teaches a fastening element 31 comprised of a mechanical fastener adapted to engage a nonwoven surface. Tanji does not teach a mechanical fastener for fasteners 17, however since Tanji teaches both mechanical fasteners and tape tabs as suitable means of securing said diaper cover 1 to a user or undergarment, it would be obvious to one of ordinary skill in the art to utilize mechanical fasteners for fastening elements 17 in lieu of adhesive tape tabs. In the instant case substitution of equivalent methods requires no express motivation, as long as the prior art recognizes equivalency, *In re Fount* 213 USPQ 532 (CCPA 1982); *In re Siebentritt* 152 USPQ 618 (CCPA 1967); *Graver Tank & Mfg. Co. Inc. v. Linde Air Products Co.* 85 USPQ 328 (USSC 1950).

Allowable Subject Matter

Claims 1-15 and 20 are allowed.

Reasons for Indicating Allowable Subject Matter

The following is a statement of reasons for the indication of allowable subject matter: A thorough search of the prior art of record did not disclose any reference, alone or in combination with other reference(s) that teaches or fairly suggests an absorbent article having a chassis and side flaps wherein lateral opposing portions of the chassis in the crotch region are folded

laterally inward to overlap side flaps and are attached to the side flaps. The closest prior art of record is Sasaki (EP 0951890). Sasaki taught the invention substantially as claimed except for the overlapping chassis in the crotch region of the diaper.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie J Hand
Examiner
Art Unit 3761

MJH

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER
